



# PELTON GRAHAM LLC

ADVOCATES FOR JUSTICE

January 5, 2021

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**VIA CM/ECF**

Hon. Rachel P. Kovner  
United States District Court  
225 Cadman Plaza East  
Brooklyn, New York 11201

**Re: *Mendez, et al. v. MCSS Rest. Corp., et al.***  
**Civil Action No. 16-cv-2746 (RPK)(RLM)**

Dear Judge Kovner:

This firm represents Plaintiffs in the above-referenced action. Plaintiffs write to update the Court on the status of Defendant MCSS Rest. Corp.'s second bankruptcy petition, *In re MCSS Rest. Corp.*, No. 20-42342 (JMM)(Bankr. E.D.N.Y.) (the "Second Bankruptcy Action"), which was pending during the briefing of Plaintiffs' motion for summary judgment. Defendants stated in their opposition to Plaintiffs' motion for summary judgment that MCSS Rest. Corp. filed a bankruptcy petition on June 15, 2020. (Dkt. No. 100, at 3). As discussed in more detail in Plaintiffs' summary judgment reply, this was the second bankruptcy petition filed by MCSS Rest. Corp. during the pendency of this Action. (Dkt. No. 104, at 6). Plaintiffs moved for relief from the automatic stay to pursue summary judgment in this Action. (*Id.*)

On October 26, 2020, the United States Trustee moved to dismiss the Second Bankruptcy Action (the "Motion to Dismiss") due to MCSS Rest. Corp.'s failure to meet its basic requirements as a debtor, including failure to file operating reports for several months, failure to pay the United States Trustee quarterly fees, failure to provide proof of Workman's Compensation and other insurance policies, and failure to file small business documents (*In re MCSS Rest. Corp.*, No. 20-42342, Dkt. No. 43-1). Following a hearing held on December 16, 2020 on the Trustee's Motion to Dismiss, the Bankruptcy Court dismissed the Second Bankruptcy Action on December 29, 2020. (*In re MCSS Rest. Corp.*, No. 20-42342, Dkt. No. 53). A copy of the Order is attached hereto as **Exhibit A**. Plaintiffs withdrew their motion for relief from the stay since it is now moot as no stay against any Defendant applies.

We appreciate Your Honor's attention to this matter. Please contact the undersigned with any questions regarding this submission.

Respectfully submitted,

/s/ Brent E. Pelton

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Plaintiffs' Letter Updating the Court on Bankruptcy Action  
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cc: All counsel (via CM/ECF)